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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 MGA ENTERTAINMENT, INC., a
California Corporation,

16 Plaintiff,

17 v.

18 DEUTSCHE BANK AG, a German
Company; BARCLAYS BANK PLC, a
19 British Corporation; CREDIT
AGRICOLE CORPORATE AND
20 INVESTMENT BANK DBA
CALYON, French Public Limited
21 Company CAISSE REGIONALE DE
CREDIT AGRICOLE DE FRANCHE
22 COMPETE, a French Cooperative
Company; COMMERZBANK
23 AKTIENGESELLSCHAFT, a British
Corporation; DEUTSCHE BANK
24 LUXEMBOURG SA, a Luxembourg
Company; SOCIETE GENERALE a
25 French Public Limited Company; and
DOES 1 through 100, inclusive,

26 Defendants.
27
28

CASE NO. CV 11-04932 GW (RZx)

[Assigned to Hon. George H. Wu]

**DEFENDANT CRÉDIT AGRICOLE
CORPORATE AND INVESTMENT
BANK'S REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF ITS
SUPPLEMENTAL
MEMORANDUM OF POINTS AND
AUTHORITIES RE MOTION TO
DISMISS FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED**

[Fed. R. Evid. 201]

*[Supplemental Memorandum of Points
and Authorities and Appendix of French
Authorities filed concurrently herewith]*

Complaint Filed: March 28, 2011

Date: February 23, 2012

Time: 8:30 a.m.

Place: Courtroom 10 – Spring Street

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant Crédit Agricole Corporate and Investment Bank (“Crédit Agricole”), formerly known as Calyon, by and through its counsel of record, and in support of its supplemental memorandum of points and authorities in further support of the motion to dismiss the Second Amended Complaint (“SAC”) of Plaintiff MGA Entertainment Inc. (“MGA”) for Failure to State a Claim upon which Relief Can Be Granted (FRCP 12(b)(6)), respectfully submits this Request for Judicial Notice pursuant to Federal Rule of Evidence 201 and the case law cited herein. Crédit Agricole hereby requests that the Court take judicial notice of the following documents:

1. Judgment opening the French Safeguard Proceeding in the Commercial Court of Lons, dated March 19, 2007. An English translation, true and accurate copy of the French original, and a translation certification are attached hereto as Exhibit 1.

2. Public notification of the French Autorité des Marchés Financiers, the French financial markets regulator, dated May 25, 2007, publicly communicating, as required by French law, statements of MGA regarding its acquisition of control of Smoby. An English translation, true and accurate copy of the French original, and a translation certification are attached hereto as Exhibit 2.

3. Pleading filed by MGA in a French lawsuit in the Appellate Court of Besançon, dated December 2, 2010. An English translation, true and accurate copy of the French original, and a translation certification are attached hereto as Exhibit 3.

4. Judgment issued by Commercial Court of Lons, France, on October 3, 2008. An English translation, true and accurate copy of the French original, a true and accurate copy of the French courtesy copy, which is more legible, and a translation certification are attached hereto as Exhibit 4.

1 5. Order from the Appellate Court of Besançon dismissing MGA's
2 appeal, dated January 8, 2009. An English translation, true and accurate copy of the
3 French original, and a translation certification are attached hereto as Exhibit 5.

4 6. Complaint filed by MGA in the Court of First Instance of Paris
5 on May 28, 2008. An English translation, true and accurate copy of the French
6 original, and a translation certification are attached hereto as Exhibit 6.

7 7. Judgment of the Commercial Court of Lons, France, concluding
8 the first conciliation proceeding of Smoby, dated October 30, 2006. An English
9 translation, true and accurate copy of the French original, and a translation
10 certification are attached hereto as Exhibit 7.

11 Pursuant to Fed. R. Evid. 201(b), the Court may judicially notice a fact that is
12 not subject to reasonable dispute because it can be accurately and readily determined
13 from sources whose accuracy cannot reasonably be questioned. Judicial notice may
14 be taken "at any stage of the proceeding." Fed. R. Evid. 201(d). Courts will take
15 judicial notice of documents in connection with motions to dismiss. *See, e.g., MGIC*
16 *Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986) (judicially noticeable
17 items may be considered when evaluating a 12(b)(6) motion).

18 This Court may take judicial notice of MGA's pleadings in the French
19 lawsuits as well as the French judgments contained in Exhibits 1, 3-7. *See In re*
20 *Toyota Motor Corp.*, No. 8:10ML 02151 JVS (FMOx), 2011 WL 6004569, at *2
21 (C.D. Cal. Nov. 30, 2011) (granting motion to dismiss); *Gabbanelli v. Gabbanelli*,
22 575 F.3d 693 (2d Cir. 2009); *Reyn's Pasta Bella, L.L.C. v. Visa U.S.A., Inc.*, 442
23 F.3d 741, 746 n.6 (9th Cir. 2006) (The court may take notice of "court filings and
24 other matters of public record.") (affirming order of dismissal).

25 In addition, the Court may take judicial notice of the public securities filing
26 made by the French Autorité des Marchés Financiers ("AMF"), which is the French
27 equivalent of the United States Securities and Exchange Commission, Exhibit 2.

1 *See, e.g., Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (court may
2 take judicial notice of public documents).

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4 DATED: December 23, 2011

KELLEY DRYE & WARREN LLP

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Lee S. Brenner

8
9 /s/ Daniel Schimmel

By Daniel Schimmel

Attorneys for Defendant Crédit Agricole
Corporate and Investment Bank